

HOUSE CONSUMER AND PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
HOUSE BILL 828

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

AN ACT

RELATING TO PUBLIC FINANCE; PROVIDING A TIERED SYSTEM OF
FINANCIAL REPORTING FOR MUTUAL DOMESTIC WATER CONSUMERS
ASSOCIATIONS, LAND GRANTS, INCORPORATED MUNICIPALITIES AND
SPECIAL DISTRICTS; ALLOWING A THREE-YEAR RETROACTIVE
APPLICATION OF THE TIERED SYSTEM.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 6-6-1 NMSA 1978 (being Laws 1957,
Chapter 250, Section 1, as amended) is amended to read:

"6-6-1. DEFINITIONS.--"Local public body" means every
political subdivision of the state ~~[which]~~ that expends public
money from whatever source derived, including but not limited
to counties, county institutions, boards, bureaus or
commissions; incorporated cities, towns or villages; drainage,
conservancy, irrigation or ~~[their]~~ other districts; charitable

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1 institutions for which an appropriation is made by the
2 legislature; and every office or officer of any of the above.
3 "Local public body" does not include a mutual domestic water
4 consumers association, a land grant, an incorporated
5 municipality or a special district with an annual revenue,
6 exclusive of capital outlay funds, federal or private grants or
7 capital outlay funds disbursed directly by an administrating
8 agency, of less than ten thousand dollars (\$10,000), nor
9 county, municipal, consolidated, union or rural school
10 districts and their officers or irrigation districts organized
11 under Sections ~~[75-23-1 through 75-23-45 New Mexico Statutes~~
12 ~~Annotated, 1953 Compilation]~~ 73-10-1 through 73-10-47 NMSA
13 1978."

14 Section 2. Section 12-6-2 NMSA 1978 (being Laws 1969,
15 Chapter 68, Section 2, as amended) is amended to read:

16 "12-6-2. ~~[DEFINITION]~~ DEFINITIONS.--As used in the Audit
17 Act:

18 A. "agency" means:

19 ~~[A.]~~ (1) any department, institution, board,
20 bureau, court, commission, district or committee of the
21 government of the state, including district courts, magistrate
22 or metropolitan courts, district attorneys and charitable
23 institutions for which appropriations are made by the
24 legislature;

25 ~~[B.]~~ (2) any political subdivision of the

1 state, created under either general or special act, that
 2 receives or expends public money from whatever source derived,
 3 including counties, county institutions, boards, bureaus or
 4 commissions; municipalities; drainage, conservancy, irrigation
 5 or other special districts; and school districts;

6 ~~[E.]~~ (3) any entity or instrumentality of the
 7 state specifically provided for by law, including the New
 8 Mexico finance authority, the New Mexico mortgage finance
 9 authority and the New Mexico lottery authority; and

10 ~~[D.]~~ (4) every office or officer of any entity
 11 listed in ~~[Subsections A through G]~~ Paragraphs (1) through (3)
 12 of this ~~[section]~~ subsection; and

13 B. "local public body" means a mutual domestic
 14 water consumers association, a land grant, an incorporated
 15 municipality or a special district."

16 Section 3. Section 12-6-3 NMSA 1978 (being Laws 1969,
 17 Chapter 68, Section 3, as amended) is amended to read:

18 "12-6-3. ANNUAL AND SPECIAL AUDITS--FINANCIAL
 19 EXAMINATIONS.--

20 A. Except as otherwise provided in Subsection B of
 21 this section, the financial affairs of every agency shall be
 22 thoroughly examined and audited each year by the state auditor,
 23 personnel of the state auditor's office designated by the state
 24 auditor or independent auditors approved by the state auditor.
 25 The comprehensive annual financial report for the state shall

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1 be thoroughly examined and audited each year by the state
2 auditor, personnel of the state auditor's office designated by
3 the state auditor or independent auditors approved by the state
4 auditor. The audits shall be conducted in accordance with
5 generally accepted auditing standards and rules issued by the
6 state auditor.

7 B. The examination of the financial affairs of a
8 local public body shall be determined according to its annual
9 revenue each year. All examinations and compliance with
10 agreed-upon procedures shall be conducted in accordance with
11 generally accepted accounting standards and rules issued by the
12 state auditor. If a local public body has an annual revenue,
13 calculated on a cash basis of accounting, exclusive of capital
14 outlay funds, federal or private grants or capital outlay funds
15 disbursed directly by an administrating agency, of:

16 (1) less than ten thousand dollars (\$10,000)
17 and does not directly expend at least fifty percent of, or the
18 remainder of, a single capital outlay award, it is exempt from
19 submitting and filing quarterly reports and final budgets for
20 approval to the local government division of the department of
21 finance and administration and from any financial reporting to
22 the state auditor;

23 (2) at least ten thousand dollars (\$10,000)
24 but less than fifty thousand dollars (\$50,000), it shall comply
25 only with the applicable provisions of Section 6-6-3 NMSA 1978;

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1 (3) less than fifty thousand dollars (\$50,000)
2 and directly expends at least fifty percent of, or the
3 remainder of, a single capital outlay award, it shall submit to
4 the state auditor a financial report consistent with agreed-
5 upon procedures for financial reporting that are:

6 (a) focused solely on the capital outlay
7 funds directly expended;

8 (b) economically feasible for the
9 affected local public body; and

10 (c) determined by the state auditor
11 after consultation with the affected local public body;

12 (4) at least fifty thousand dollars (\$50,000)
13 but not more than two hundred fifty thousand dollars
14 (\$250,000), it shall submit to the state auditor, at a minimum,
15 a financial report that includes a schedule of cash basis
16 comparison and that is consistent with agreed-upon procedures
17 for financial reporting that are:

18 (a) narrowly tailored to the affected
19 local public body;

20 (b) economically feasible for the
21 affected local public body; and

22 (c) determined by the state auditor
23 after consultation with the affected local public body;

24 (5) at least fifty thousand dollars (\$50,000)
25 but not more than two hundred fifty thousand dollars (\$250,000)

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1 and expends any capital outlay funds, it shall submit to the
2 state auditor, at a minimum, a financial report that includes a
3 schedule of cash basis comparison and a test sample of expended
4 capital outlay funds and that is consistent with agreed-upon
5 procedures for financial reporting that are:

6 (a) narrowly tailored to the affected
7 local public body;

8 (b) economically feasible for the
9 affected local public body; and

10 (c) determined by the state auditor
11 after consultation with the affected local public body;

12 (6) at least two hundred fifty thousand
13 dollars (\$250,000) but not more than five hundred thousand
14 dollars (\$500,000), it shall submit to the state auditor, at a
15 minimum, a compilation of financial statements and a financial
16 report consistent with agreed-upon procedures for financial
17 reporting that are:

18 (a) economically feasible for the
19 affected local public body; and

20 (b) determined by the state auditor
21 after consultation with the affected local public body; or

22 (7) five hundred thousand dollars (\$500,000)
23 or more, it shall be thoroughly examined and audited as
24 required by Subsection A of this section.

25 ~~[B.]~~ C. In addition to the annual audit, the state

1 auditor may cause the financial affairs and transactions of an
2 agency to be audited in whole or in part.

3 ~~[G.]~~ D. Annual financial and compliance audits of
4 agencies under the oversight of the financial control division
5 of the department of finance and administration shall be
6 completed and submitted by an agency and independent auditor to
7 the state auditor no later than sixty days after the state
8 auditor receives notification from the financial control
9 division to the effect that an agency's books and records are
10 ready and available for audit. The local government division
11 of the department of finance and administration shall inform
12 the state auditor of the compliance or failure to comply by a
13 local public body with the provisions of Section 6-6-3 NMSA
14 1978.

15 ~~[D.]~~ E. In order to comply with United States
16 department of housing and urban development requirements, the
17 financial affairs of a public housing authority that is
18 determined to be a component unit in accordance with generally
19 accepted accounting principles, other than a housing department
20 of a local government or a regional housing authority, at the
21 public housing authority's discretion, may be audited
22 separately from the audit of its local primary government
23 entity. If a separate audit is made, the public housing
24 authority audit shall be included in the local primary
25 government entity audit and need not be conducted by the same

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1 auditor who audits the financial affairs of the local primary
2 government entity."

3 Section 4. TEMPORARY PROVISION--LIMITED WAIVER.--

4 Compliance of a local public body not in compliance with the
5 Audit Act between January 1, 2007 and June 30, 2010 is waived
6 for those years if the local public body complies with the
7 applicable provisions of that act in effect on or after July 1,
8 2010, unless the local public body is required to receive a
9 full financial and compliance audit pursuant to the provisions
10 of that act in effect on or after July 1, 2010.

11 Section 5. EFFECTIVE DATE.--The effective date of the
12 provisions of this act is July 1, 2010.